

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maura Roche	Team: Squad #10	CCRB Case #: 201901368	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 02/02/2019 3:00 PM	Location of Incident: [REDACTED]	Precinct: 52	18 Mo. SOL 8/2/2020	EO SOL 3/19/2021	
Date/Time CV Reported Sat, 02/02/2019 3:00 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 02/13/2019 11:24 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Jose Cepeda	19206	958389	052 PCT
2. SGT Jonathan Rivera	02049	949550	052 PCT
3. POF Tara Convery	09337	956544	052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Corey Williams	07231	966396	052 PCT
2. POM Ryan Lawrence	11278	956828	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POF Tara Convery	Abuse of Authority: At the intersection of § 87(2)(b) [REDACTED] in the Bronx, Police Officer Tara Convery stopped the vehicle in which § 87(2)(b) [REDACTED] were occupants.	A . § 87(2)(g)
B . POM Jose Cepeda	Abuse of Authority: At the intersection of § 87(2)(b) [REDACTED] in the Bronx, Police Officer Jose Cepeda stopped the vehicle in which § 87(2)(b) [REDACTED] were occupants.	B . § 87(2)(g)
C . POM Jose Cepeda	Abuse of Authority: At the intersection of § 87(2)(b) [REDACTED] in the Bronx, Police Officer Jose Cepeda frisked § 87(2)(b) [REDACTED].	C . § 87(2)(g)
D . POM Jose Cepeda	Abuse of Authority: At the intersection of § 87(2)(b) [REDACTED] in the Bronx, Police Officer Jose Cepeda searched § 87(2)(b) [REDACTED].	D . § 87(2)(g)
E . POF Tara Convery	Abuse of Authority: At the intersection of § 87(2)(b) [REDACTED] in the Bronx, Police Officer Tara Convery searched the vehicle in which § 87(2)(b) [REDACTED] were occupants.	E . § 87(2)(g)
F . POF Tara Convery	Abuse of Authority: At the intersection of § 87(2)(b) [REDACTED] in the Bronx, Police Officer Tara Convery damaged § 87(2)(b) [REDACTED] property.	F . § 87(2)(g)
G . SGT Jonathan Rivera	Abuse of Authority: At the 52nd Precinct stationhouse, Sergeant Jonathan Rivera strip-searched § 87(2)(b) [REDACTED].	G . § 87(2)(g)
H . SGT Jonathan Rivera	Abuse of Authority: At the 52nd Precinct stationhouse, Sergeant Jonathan Rivera strip-searched § 87(2)(b) [REDACTED].	H . § 87(2)(g)

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
L . SGT Jonathan Rivera	Other: There is evidence suggesting Sergeant Jonathan Rivera provided a false official statement in violation of PG 203-08.	L . § 87(2)(g)

Case Summary

On February 5, 2019, § 87(2)(b) filed this complaint on behalf of himself and his friend, § 87(2)(b) with IAB by phone. It was received at the CCRB on February 13, 2019, under IAB original log number 2019-5339.

On February 2, 2019, at approximately 3 p.m., at the intersection of § 87(2)(b) in the Bronx, PO Tara Convery and PO Jose Cepeda, both of the 52nd Precinct at the time of this incident (PO Convery has since been transferred to the Manhattan Special Victims Squad), stopped § 87(2)(b) who was in a car with § 87(2)(b) for driving with excessive tints (**Allegations A and B: Abuse of Authority – Vehicle Stop, § 87(2)(g)**). PO Cepeda asked § 87(2)(b) to step out of the car, and, as soon as § 87(2)(b) got out of the car, PO Cepeda patted down the exterior of his clothes (**Allegation C: Abuse of Authority – Frisk, § 87(2)(g)**) and reached into his pockets, removing two cell phones (**Allegation D: Abuse of Authority – Search (of person), § 87(2)(g)**). At the same time, PO Convery looked inside the interior of the car (**Allegation E: Abuse of Authority – Vehicle Search, § 87(2)(g)**). When PO Convery was looking in the back-passenger area of the car, she allegedly damaged a cup holder located within the back-seating panel of the car (**Allegation F: Abuse of Authority – Property Damage, § 87(2)(g)**).

PO Cepeda and PO Convery drove § 87(2)(b) and § 87(2)(b) back to the 52nd Precinct stationhouse, where Sgt. Rivera authorized PO Cepeda and PO Ryan Lawrence, also of the 52nd Precinct, to perform strip-searches of both § 87(2)(b) and § 87(2)(b) (**Allegations G and H: Abuse of Authority – Strip-Search, § 87(2)(g)**).

§ 87(4-b), § 87(2)(g)

The CCRB found evidence suggesting that Sgt. Rivera provided a false official statement on December 18, 2019, when he provided a memo book (**BR 01**) which included entries not contained in the memo book obtained earlier from IAB (**BR 02**). (**Allegation L: Other Misconduct – False Official Statement**). This was referred to IAB under CCRB case number 201910831 on December 24, 2019.

§ 87(2)(b) (**BR 03** and **BR 04**) and § 87(2)(b) (**BR 05**) were both arrested as a result of this incident.

Stationhouse footage (**BR 06, BR 07, BR 08, and BR 09**) and body-worn camera footage from PO Convery (**BR 10**) and PO Cepeda (**BR 11**) was obtained, and the relevant portions are discussed below. There was no other video of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: At the intersection of § 87(2)(b) in the Bronx, Police Officer Tara Convery stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (B) Abuse of Authority: At the intersection of § 87(2)(b) in the Bronx, Police Officer Jose Cepeda stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It was undisputed that PO Convery and PO Cepeda stopped § 87(2)(b) and § 87(2)(b) because § 87(2)(b) was driving a car with tinted windows.

§ 87(2)(b) (**BR 12** and **BR 13**) consistently stated that all of the windows in his car have a slight tint, but he did not think that the officers could tell that his windows were tinted because his sunroof was open.

PO Convery (**BR 13**) and PO Cepeda (**BR 14**) consistently stated that the reason that they stopped § 87(2)(b) was because of his tinted windows.

In PO Cepeda's body-worn camera footage (**BR 11**), beginning at 00:05 seconds, PO Cepeda tells § 87(2)(b) "We stopped you for the tints, right?" § 87(2)(b) answers, "I understand that, bro."

Screen shots from PO Cepeda's body-worn camera footage capture the rear windshield and the

passenger side windows (**BR 39** and **BR 40**). The rear windshield is opaque, and the interior of the car is not visible. The back-passenger side window is partially rolled down and reflects Sgt. Rivera's shield. The interior of the car is visible through the portion of the window that is rolled down, but not through the window itself.

Although § 87(2)(b) was not charged for tinted windows on his arrest report (**BR 03**), the narrative sections states that § 87(2)(b) was stopped because he was driving with excessive tints

§ 87(2)(g)

New York State Vehicle and Traffic Law [VAT] § 375 (12) (**BR 16**) states that no person shall operate any motor vehicle upon any public highway, road, or street the front windshield, the side wings or side windows, and/or the rear window of which is composed of, covered by, or treated with any material which has a light transmittance of less than seventy percent.

According to People v. Robinson, 97 N.Y.2d 341 (2001) (**BR 38**), vehicle stops are permissible when an officer can articulate credible facts establishing reasonable cause that the driver of the automobile has committed a traffic violation. Neither the motivation of the officer nor a determination of what a reasonable traffic officer would have done under the circumstances is relevant to the propriety of the stop.

§ 87(2)(g)

Allegation (C) Abuse of Authority: At the intersection of § 87(2)(b)

in the Bronx, Police Officer Jose Cepeda frisked § 87(2)(b)

Allegation (D) Abuse of Authority: At the intersection of § 87(2)(b)

in the Bronx, Police Officer Jose Cepeda searched § 87(2)(b)

Allegation (E) Abuse of Authority: At the intersection of § 87(2)(b)

in the Bronx, Police Officer Tara Convery searched the vehicle in which § 87(2)(b)

and § 87(2)(b) were occupants.

It was undisputed that PO Cepeda patted down § 87(2)(b) and that PO Convery searched § 87(2)(b)'s car because of the odor of marijuana. § 87(2)(g)

§ 87(2)(b) (**BR 12** and **BR 13**) consistently stated that after he stopped the car, PO Cepeda approached him and asked him if he "smoked." § 87(2)(b) interpreted this to mean marijuana and responded that he had smoked earlier in the day but not in the car. § 87(2)(b) clarified during his interview that his clothes may have smelled like marijuana, but his car did not because he never smoked marijuana in the car, had air fresheners attached to all the vents, and kept scented ricks under the car seats.) PO Cepeda asked § 87(2)(b) and § 87(2)(b) who was in the front passenger seat, to step out of the car and stand by the trunk, which they did. PO Cepeda patted down the exterior of § 87(2)(b)'s clothing from his ankles to his shoulders, squeezed his jacket and pants pockets, reached into § 87(2)(b)'s front jacket pockets, where he kept two phones, removed the phones, and then put the phones back into the pockets.

After PO Cepeda frisked and searched § 87(2)(b) PO Convery leaned into the car with her knees on the seats starting with the front-passenger side and then moving to the back-passenger side, the front-driver's side, and finally the back-driver's side. PO Convery lifted the center console and opened the glove compartment. Having completed the search of the interior of the car, PO Convery and PO Cepeda told § 87(2)(b) and § 87(2)(b) to get back into the car and asked § 87(2)(b) to open the trunk. When § 87(2)(b) refused to open the trunk, PO Cepeda told him to step back out of the car and that he was under arrest.

The investigation was unable to establish contact with § 87(2)(b)

PO Cepeda (**BR 15**) stated that he approached § 87(2)(b) who was in the front-driver's seat, and that as soon as he began speaking with § 87(2)(b) he smelled the odor of marijuana

coming from inside the car. Based on the odor of marijuana, PO Cepeda asked § 87(2)(b) to get out of the car, and, also because of the odor of marijuana, he patted down the exterior of § 87(2)(b)'s clothing. PO Cepeda could not recall if he ever went inside any of § 87(2)(b)'s pockets.

PO Convery's statement (BR 14) was generally consistent with that of PO Cepeda with the following exceptions noted. PO Convery smelled the odor of burnt marijuana as she approached the front-passenger side of § 87(2)(b)'s car. PO Convery did not recall searching the car nor did she recall seeing PO Cepeda pat down § 87(2)(b) or go into any of § 87(2)(b)'s pockets.

A property voucher (BR 17), prepared by PO Cepeda, indicated that two clear resealable bags containing alleged marijuana were recovered from § 87(2)(b).

§ 87(2)(b) stated that he had smoked marijuana earlier that morning and that his clothes may have smelled like marijuana. PO Cepeda and PO Convery consistently stated that upon approaching § 87(2)(b)'s car, they smelled the odor of marijuana. Additionally, PO Cepeda vouchered marijuana belonging to § 87(2)(b) § 87(2)(g).

According to People v. Chestnut, 43 A.D.2d 260 (1974) (BR 18), the smell of marijuana smoke, with nothing more, can be sufficient to provide officers with probable cause to search an automobile and its occupants.

§ 87(2)(g)

Allegation (F) Abuse of Authority: At the intersection of § 87(2)(b) in the Bronx, Police Officer Tara Convery damaged § 87(2)(b)'s property.

§ 87(2)(b) (BR 12 and BR 13) consistently stated that when he regained possession of his car, a piece of plastic behind the cup holder in the center console area in the back seat of the car was missing (BR 19). This piece of plastic separated the back-seat area from the interior of the trunk and had been intact prior to PO Convery's search.

PO Convery (BR 14) did not have an independent recollection of searching § 87(2)(b)'s car and did not recall the condition of its interior.

PO Cepeda (BR 15) did not see where in § 87(2)(b)'s car PO Convery searched, was not sure who conducted the inventory search, and could not recall the condition of its interior.

Neither PO Convery's (BR 10) nor PO Cepeda's (BR 11) body-worn camera footage captures this portion of the incident.

§ 87(2)(g)

Allegation (G) Abuse of Authority: At the 52nd Precinct stationhouse, Sergeant Jonathan Rivera strip-searched § 87(2)(b)

Allegation (H) Abuse of Authority: At the 52nd Precinct stationhouse, Sergeant Jonathan Rivera strip-searched § 87(2)(b)

It was undisputed that Sgt. Rivera authorized strip-searches of § 87(2)(b) and § 87(2)(b) both of which were conducted by PO Cepeda and PO Lawrence.

§ 87(2)(b) (BR 12 and BR 13) stated that PO Cepeda told him that he was under arrest because PO Convery had recovered a dagger from inside the car. § 87(2)(b) denied possession of a dagger and told PO Cepeda that he did not know there had been one in the car. PO Convery asked § 87(2)(b) to step out of the car, and he told her that the dagger was his, at which point PO Convery placed § 87(2)(b) into handcuffs. PO Convery then approached § 87(2)(b) and told him that she had seen him "toss" the dagger, but § 87(2)(b) did not know what she meant by that because he had not known about the dagger.

PO Cepeda sat § 87(2)(b) and § 87(2)(b) in the backseat of his police vehicle, drove them to the 52nd Precinct stationhouse, and led them to the front desk. PO Cepeda patted down § 87(2)(b) and removed from his pockets two phones and his wallet, which contained \$1,790. PO Cepeda also removed two small one-inch by one-inch clear Ziplock bags of marijuana from one of § 87(2)(b)'s pockets – he could not recall which one. § 87(2)(b) told PO Cepeda that the marijuana was for personal use. At the same time, another officer was standing with § 87(2)(b) but § 87(2)(b) was not paying attention to their interaction.

After removing the phones, wallet, and marijuana from § 87(2)(b)'s pockets, PO Cepeda went up to the desk and spoke with some officers, one of whom approached § 87(2)(b) and told him that he was going to be strip-searched. PO Cepeda and PO Lawrence, after asking § 87(2)(b) to remove his shoelaces and the string from his waistband in the holding cell area, led § 87(2)(b) to a bathroom. § 87(2)(b) asked PO Cepeda who authorized the strip-search, and PO Cepeda told him to “take it up with Sgt. Rivera.” § 87(2)(b) yelled loudly that he did not consent to a strip-search but, when he saw PO Cepeda and PO Lawrence take off their body-worn cameras, he complied with PO Cepeda’s instructions to remove his clothing, squat, and cough. § 87(2)(b) then put his clothes back on and returned to the holding pen area.

Once § 87(2)(b) was inside one of the cells, PO Convery told him that he had an open warrant for a domestic violence incident and that he had been strip-searched because officers had recovered drugs from § 87(2)(b)'s wallet. § 87(2)(b) had not seen the officers search § 87(2)(b) and did not know what kind of drugs had been recovered.

As noted above, § 87(2)(b) did not provide the CCRB with a statement.

PO Cepeda (BR 15) stated that after he frisked § 87(2)(b) PO Convery told him that when § 87(2)(b) had gotten out of the car, she saw a dagger on the front driver’s seat where § 87(2)(b) had been sitting. PO Cepeda had not seen the dagger, which she described as a four to five inches long with a double-edged blade in a black sheath and a rainbow patterned handle. Having heard this, PO Cepeda realized that when § 87(2)(b) had exited the car, he had kept his legs closed together and hopped out of the car with his legs still together instead of how most people normally exit one leg at a time. PO Cepeda thought that this manner of exiting the car was indicative of § 87(2)(b) trying to conceal something.

PO Cepeda placed § 87(2)(b) under arrest for the dagger, which PO Convery recovered from the seat after speaking with PO Cepeda, and then ran a check on § 87(2)(b) at which time he saw that § 87(2)(b) had an open warrant (BR 20). PO Cepeda subsequently arrested § 87(2)(b) for the open warrant (BR 05) and asked him to exit § 87(2)(b)'s car. § 87(2)(b) seemed upset because he had been sleeping and was reluctant to get out of the car; however, he eventually complied, and PO Cepeda drove him and § 87(2)(b) to the 52nd Precinct stationhouse.

During the ride, § 87(2)(b) who was largely cooperative, was talking a lot and seemed upset that he was in trouble over “just a dagger.” At the stationhouse, PO Cepeda stood § 87(2)(b) and § 87(2)(b) approximately 10 to 15 feet in front of the main desk where Sgt. Rivera was standing. PO Cepeda searched § 87(2)(b) and obtained his pedigree information while PO Convery did the same for § 87(2)(b).

As PO Cepeda was searching § 87(2)(b) he noticed that § 87(2)(b) seemed nervous because he was talking more than he had been before, which PO Cepeda thought meant that § 87(2)(b) was trying to distract him from something. § 87(2)(b) also seemed less compliant than he had been at the initial incident location. Although PO Cepeda could not recall specifically what § 87(2)(b) was doing that was uncooperative, the overall change in his demeanor made PO Cepeda think that § 87(2)(b) was concealing something. At some point, PO Cepeda recalled vouchering marijuana that he had recovered from § 87(2)(b) but he could not recall from where he recovered the marijuana, how much he recovered, or when he recovered it. PO Cepeda could not recall how much money § 87(2)(b) had on him but noted that large sums of money could be indicative the sale of narcotics.

§ 87(2)(b)'s demeanor at the desk was the same as it had been at the initial incident location. He still seemed upset about the situation because he was talking a lot, and he was generally

cooperative with PO Convery. While she was searching § 87(2)(b) PO Convery found a small, dime-sized bag of cocaine in his wallet.

Based on PO Cepeda's observations that he had smelled marijuana in the car when he and PO Convery first stopped § 87(2)(b) had tried to conceal the dagger when he exited the car, § 87(2)(b)'s demeanor changed from talkative but compliant to nervous, more talkative, and less cooperative, which PO Cepeda thought indicated he was trying to distract and conceal something, § 87(2)(b) was consistently uncooperative, PO Convery recovered cocaine from § 87(2)(b)'s wallet, and PO Cepeda had recovered marijuana from § 87(2)(b) PO Cepeda suspected that both § 87(2)(b) and § 87(2)(b) may have been concealing weapons or contraband underneath their clothing. PO Cepeda outlined these observations to Sgt. Rivera at the desk, and Sgt. Rivera authorized strip-searches for both § 87(2)(b) and § 87(2)(b).

PO Cepeda and another officer he could not recall took § 87(2)(b) first and then § 87(2)(b) to a bathroom behind the desk and conducted strip-searches, the results of which were both negative. PO Cepeda told Sgt. Rivera the results, and Sgt. Rivera made a notation in the Command Log.

Sgt. Rivera's statement (**BR 21**), was generally consistent with that of PO Cepeda with the following exceptions noted. PO Convery requested that Sgt. Rivera verify an arrest subsequent to a vehicle stop regarding an individual with an I-Card with probable cause to arrest who had tried to conceal a knife. Upon arrival, PO Convery and PO Cepeda told Sgt. Rivera that they had smelled marijuana coming from the car and that § 87(2)(b) had tried to conceal a knife by moving it around in the front-driver's seat. After further investigation, PO Convery and PO Cepeda confirmed that § 87(2)(b) had an I-Card with probable cause to arrest for § 87(2)(b) and that § 87(2)(b) had an open warrant. Sgt. Rivera thought that § 87(2)(b) and § 87(2)(b) were uncooperative during the stop because they both wanted to leave the location as quickly as possible.

At the stationhouse, Sgt. Rivera conducted searches for § 87(2)(b) and found that he had multiple I-Cards for assault. He also confirmed that § 87(2)(b) had an open warrant, but he could not recall what it was for. Either PO Convery or PO Cepeda told him that they had recovered additional narcotics on § 87(2)(b) at the stationhouse, but Sgt. Rivera could not recall if they found any narcotics on § 87(2)(b). Sgt. Rivera decided to authorize a strip-search, at PO Cepeda's request, for both § 87(2)(b) and § 87(2)(b) because § 87(2)(b) and § 87(2)(b) had both been passengers in a vehicle that smelled like marijuana, § 87(2)(b) had tried to conceal a knife, § 87(2)(b) and § 87(2)(b) had been evasive because they had they wanted to leave initial incident location as quickly as possible, § 87(2)(b) had not been forthcoming about having narcotics on his person, § 87(2)(b) had an I-Card, § 87(2)(b) had an open warrant, and criminal searches for both § 87(2)(b) and § 87(2)(b) indicated that they had histories involving narcotics and weapons. As such, Sgt. Rivera thought that they may have been further concealing narcotics or weapons.

PO Convery (**BR 14**) had no independent memory of the incident except for smelling marijuana upon approaching § 87(2)(b)'s car and seeing a knife on the seat after § 87(2)(b) exited the car.

Body-worn camera footage from PO Cepeda (**BR 11**) and PO Convery (**BR 10**) captures the incident from after PO Convery searches § 87(2)(b)'s car up to Sgt. Rivera's approval of the strip-searches and was generally consistent with § 87(2)(b)'s, PO Cepeda's, Sgt. Rivera's, and PO Convery's statements. In PO Cepeda's footage, beginning at 11:05 minutes, § 87(2)(b) and § 87(2)(b) are in front of the desk at the 52nd Precinct stationhouse. The camera is positioned at the desk, and it does not clearly capture all of the audio.

At 16:04 minutes, PO Cepeda stands at the desk in front of Sgt. Rivera counting § 87(2)(b)'s money, which totals approximately \$1,690. PO Cepeda tells Sgt. Rivera that they found a warrant for § 87(2)(b). At 16:42 minutes, PO Convery, who is speaking with § 87(2)(b), demonstrates the motion he made to conceal the knife when he got out of the car. At 19:58 minutes, Sgt. Rivera says, "...firearm in the 42 in 2011, PC I-Card robbery" in regard to § 87(2)(b). At 20:35 minutes, PO Convery tells Sgt. Rivera, "Passenger has crack on him." At 22:04 minutes, PO

Convery asks PO Cepeda, “Where’s the weed on him § 87(2)(b) PO Cepeda replies, “It was in his back-left pocket.” At 25:39 minutes, Sgt. Rivera tells PO Cepeda, “Alright, we need them searched.”

Property vouchers confirm recovery of a multicolored dagger (**BR 22**), two bags of marijuana (**BR 17**), and \$1,690 (**BR 23**) from § 87(2)(b) and four clear bags of cocaine (**BR 24**) and \$333 (**BR 25**) from § 87(2)(b)

At the time of the incident, there was an open warrant for § 87(2)(b) (**BR 20**), and an open I-Card with probable cause to arrest for § 87(2)(b) for robbery (**BR 26**), both of which were cancelled immediately after this incident. The investigation was unable to obtain a copy of § 87(2)(b)s cancelled warrant. However, § 87(2)(b)s I-Card noted that § 87(2)(b) had a history of resisting arrest and firearms possession.

PO Cepeda documented the strip-searches in his memo book (**BR 27**), and Sgt. Rivera noted the strip-searches in the command log (**BR 28**).

As noted above, § 87(2)(b) told PO Cepeda that he had smoked earlier in the day, and the investigation determined that there was an aroma of marijuana emanating from § 87(2)(b)s car at the time of the vehicle stop. Subsequent to a search at the location, PO Convery recovered a dagger from the front passenger seat. PO Cepeda and PO Convery consistently stated that § 87(2)(b) tried to conceal the dagger when exiting the vehicle. At the stationhouse, officers recovered cocaine in § 87(2)(b)s wallet and marijuana in § 87(2)(b)s back left pocket. Additionally, § 87(2)(b) had an open I-Card for robbery, and § 87(2)(b) had an open warrant. PO Cepeda and Sgt. Rivera both stated that they considered § 87(2)(b) and § 87(2)(b) to be uncooperative, and PO Cepeda described § 87(2)(b) and § 87(2)(b) as nervous and evasive because of the way that they were speaking at the stationhouse.

Patrol Guide procedure 208-05 (**BR 29**) states that strip-searches may only be conducted with the knowledge and approval of the arresting officer’s immediate supervisor or the borough Court Section supervisor. A strip-search may only be conducted when the arresting officer reasonably suspects that weapons, contraband, or evidence may be concealed upon the person or in the clothing in such a manner that they may not be discovered by the previous search methods.

According to People v. Pierre, 8 A.D.3d 904 (2004) (**BR 31**), officers had probable cause to strip-search an individual who initially misidentified himself, had an open warrant, and denied using marijuana but was stopped in a taxi smelling of marijuana with another individual who admitted to earlier being in the presence of someone who had used marijuana.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Allegation (L) Other Misconduct: There is evidence suggesting Sergeant Jonathan Rivera provided a false official statement in violation of PG 203-08.

On September 16, 2019, the CCRB received a copy of Sgt. Rivera's memo book (**BR 02**) from IAB, which did not contain any entries in regard to this incident. On December 18, 2019, Sgt. Rivera appeared at the CCRB and provided a copy of his memo book that did include reference to this incident (**BR 01**). When asked to explain the discrepancies between the memo books, Sgt. Rivera stated (**BR 21**) that his first memo book was damaged, and he recreated the second memo book from memory. Sgt. Rivera could not recall when the first memo book was damaged or when he created the second memo book. Sgt. Rivera did not complete any complaint reports regarding the damaged memo book (**BR 31**). There were no entries in the recreated memo book by either Sgt. Rivera or his supervisor documenting that the entries were recreated due to damage to the original memo book.

According to Patrol Guide procedure 212-08 (**BR 41**), members of service below the rank of captain are must make memo book entries to include tasks performed, information pertinent to an assignment or observed/suspected violation of law, and actions taken. Officers are not permitted to remove pages from their memo books for any reason. Upon completion of a memo book, officers will submit it to a supervisor for review. After ascertaining that all required information has been entered on the cover of the memo book, the supervisor will enter his signature on the last page and cover of the memo book, complete required entries in "Distribution Record," and issue a new memo book to the member of service.

Patrol Guide procedure 203-08 states that all officers are strictly prohibited from intentionally making a false official statement, and are subject to disciplinary action, up to and including dismissal, for doing so. False official statement may include lying in an NYPD interview, in a CCRB interview, or in an official NYPD document or report (**BR 32**).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
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- ## Mediation, Civil and Criminal Histories

Squad No.: 10

Investigator:	<u>Maura R. Roche</u>	<u>S.I. Maura R. Roche</u>	<u>04/24/2020</u>
	Signature	Print Title & Name	Date

Squad Leader: <u>Eric Rigie</u>	<u>IM Eric Rigie</u>	<u>4/24/2020</u>
Signature	Print Title & Name	Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____